

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. This letter discusses the obligations of Internet service providers. See 86 Ill. Adm. Code 495. (This is a GIL.)

December 11, 2006

Dear Xxxxx:

This letter is in response to your letter dated September 11, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC is a wireless internet company. When ABC was started, I checked to see if we were required to collect any taxes on our internet service and I was told I was not. We do not collect any form of tax or access fee on our service.

If you have any questions regarding the above please call me.

Thank you,

DEPARTMENT'S RESPONSE

Communication regarding the IDR-185 that you received should be directed to the contact listed on the IDR-185 rather than to the Legal Services Office. However, we hope that the following general information is helpful.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. 35 ILCS 630/3. This tax must be collected from persons by "retailers maintaining a place of business in Illinois." 35 ILCS 630/5. "Gross

charges” means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service costs or any other expense whatsoever. However, gross charges do not include charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges in the books and records of the retailer. See 86 Ill. Adm. Code 495.100.

“Telecommunications,” in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll and wide area telephone service; private line services; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber-optics, laser, microwave, radio, satellite or similar facilities. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into end-to-end telecommunications service shall be non-taxable as sales for resale. 35 ILCS 630/2(c). Telecommunications made through DSL or T1 lines are included.

Generally, persons that provide subscribers access to the Internet and who do not, as part of that service, charge subscribers for the line or other transmission charges that are used to obtain access to the Internet are not considered to be telecommunications retailers from these activities. It is our general understanding that many Internet service providers (ISPs) do not, as part of their billing, charge subscribers for such line charges, but instead, pay all transmission costs to their telecommunications providers. If companies provide telecommunications to such end-users (e.g., to the ISPs described immediately above) and are also “retailers maintaining a place of business in this State,” they are required to collect the tax from such ISPs and remit it to the Department. Consequently, an ISP might pay its telecommunications provider the tax for DSL services it used to provide Internet access. If, however, the ISPs separately charge subscribers for the DSL line or other transmission charges, they should provide their telecommunications providers with Certificates of Resale and should themselves collect and remit tax.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department’s Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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